

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Ron L. Hale et al.)
Application No.: 10/633,877) Examiner: M. Haghigian
Filed: August 04, 2003) Group Art Unit: 1616
For: THIN-FILM DRUG DELIVERY) Confirmation No.: 5255
ARTICLE AND METHOD OF USE)
)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**TERMINAL DISCLAIMER TO OBVIATE PROVISIONAL DOUBLE
PATENTING REJECTIONS OVER PENDING “REFERENCE” APPLICATIONS**

Sir:

The owner, Alexza Pharmaceuticals, Inc., of the entire interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference** Application Number 10/057,197, filed on October 26, 2001; pending **reference** Application Number 10/057,198, filed on October 26, 2001; and pending **reference** Application Number 10/437,643, filed on May 13, 2003 (each hereinafter a “**reference** application”), as such term is defined in 35 U.S.C. § 154 and 173, and as shortened by any terminal disclaimer filed prior to its grant. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on a **reference** application is commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. § 154 and 173 of any patent granted on a pending **reference** application, as shortened by any terminal disclaimer filed prior to its grant, in the event that any such patent granted on the **reference** application expires for

failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned is an attorney of record.

The undersigned hereby authorizes the charge of the terminal disclaimer fee of \$70.00 or any deficiency of fees to be charged to deposit account No. 19-5117.

Respectfully submitted,

Date: October 10, 2008

/Katherine Lobel-Rice/

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